

EXHIBIT 28



FIN-2014-A008

September 11, 2014

Advisory

Guidance on Recognizing Activity that May be Associated with Human Smuggling and Human Trafficking – Financial Red Flags

FinCEN identifies “red flags” to assist financial institutions in identifying and reporting suspicious financial activity connected to human smuggling and human trafficking.

To support law enforcement efforts to fight human smuggling and human trafficking, the Financial Crimes Enforcement Network (FinCEN) seeks to advise financial institutions on how to detect and report suspicious financial activity that may be related to human smuggling and/or human trafficking. Financial institutions, large and small, can play a critical role in identifying and reporting transactions related to these unlawful activities based on their observations when interacting with customers and their monitoring processes.

FinCEN, in collaboration with law enforcement agencies, non-governmental organizations and members of the financial industry, has identified financial indicators, or “red flags,” that may indicate financial activity related to human smuggling or human trafficking. In addition to identifying red flags, this advisory provides common terms that financial institutions may use when reporting activity related to these crimes. The use of common terms will assist law enforcement in better identifying possible cases of human smuggling or human trafficking reported through Suspicious Activity Reports (SARs).

Human Smuggling

Acts or attempts to bring unauthorized aliens to or into the United States, transport them within the U.S., harbor unlawful aliens, encourage entry of illegal aliens, or conspire to commit these violations, knowingly or in reckless disregard of illegal status.¹

Human Trafficking

The act of recruiting, harboring, transporting, providing or obtaining a person for forced labor or commercial sex acts through the use of force, fraud or coercion.²

1. See, 8 U.S.C. § 1324.

2. See generally, 18 U.S.C. §§ 1581, 1584, 1589, 1590, 1591, 24121, 2422, 2423 and 2425, The Victims of Trafficking and Violence Protection Act of 2000 (Pub. L. No. 106-386), applicable State laws and the [President’s Interagency Task Force – Progress in Combating Trafficking in Persons: The U.S. Government Response to Modern Slavery](#).

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Difference between Human Smuggling and Human Trafficking

Human Smuggling

- (i) Involves persons choosing to immigrate illegally.
- (ii) Is limited to illegal migration or the harboring of undocumented aliens.
- (iii) Involves foreign nationals.
- (iv) The crime involves an illegal border crossing or the harboring of someone that illegally crossed the border.

Human Trafficking

- (i) Involves the use of force or coercion and the exploitation of victims.
- (ii) Includes, but is not limited to, involuntary servitude, forced labor, debt bondage, peonage and sexual exploitation.
- (iii) Anyone can be a victim regardless of origin, sex, age or legal status.
- (iv) There is no need for a person to cross a border to be trafficked; individuals can be trafficked within the borders of a country.

Understanding How Human Smuggling and Human Trafficking Work

There are a number of identifiable stages involved in human smuggling and in human trafficking during which traffickers may need to interact with the financial system. This advisory includes below a brief description of these stages to provide financial institutions with the necessary context to appropriately identify potential human smuggling and/or human trafficking-related transactions. Financial indicators, including those described in Appendices A and B, may reflect transactions associated with actions that facilitate one or more of the stages of human smuggling and/or human trafficking.

How Human Smuggling Works

Stages of Human Smuggling generally include:

Solicitation: A potential migrant may seek the services of a local facilitator/smuggler. Local facilitators/smugglers are often part of a larger smuggling network that works to bring migrants across a country border. In the United States, illegal migrants often originate from Mexico and Central America, but they may originate from anywhere in the world.

Transportation: Migrants may be smuggled through a number of different routes and transportation modes to avoid detection. The person may be transported by air, sea and/or land over an international border.

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Payment: Payment to smugglers or to smuggling networks are generally conducted in one of three ways.

1. *Pay In Advance:* The migrant or the migrant's relatives provide full payment to the smuggler before traveling. This method of payment is often used by relatives of unaccompanied minors for their migration.
2. *Partial Payment:* A portion of the smuggling fees is paid prior to departure, with the remaining due upon arrival; final payment is often made by relatives of the migrant in the United States.
3. *On Arrival:* After the migrant is successfully smuggled, the migrant's relatives pay the full fee to the smuggler. This method of payment is often used by relatives of unaccompanied minors for their migration.

How Human Trafficking Works

Stages of Human Trafficking generally include:

Recruitment or Abduction: Traffickers obtain their victims through deception or force. For instance, traffickers may recruit victims through the use of kidnapping, false marriages, or advertisements offering employment or study abroad. Individuals from countries and geographic areas that have been affected by economic hardship, armed conflicts or natural disasters are particularly vulnerable to these tactics.

Transportation: After being collected, victims are transported to locations where they are exploited or sold to other traffickers. Victims may originate from abroad or within the United States and may be transported by air, sea and/or land domestically or internationally.

Exploitation: During this stage, traffickers profit from exploiting victims through forced labor, sexual exploitation, involuntary participation in crimes or other activity. Businesses in the service and manual labor industries (e.g., massage parlors, restaurants, farms, construction companies, domestic services) have been frequently used to exploit trafficked individuals.³ In contrast to the one-time illicit proceeds of human smuggling, this final phase of human trafficking may generate ongoing criminal proceeds.

3. To view the industry sectors particularly vulnerable to human trafficking, please see the [U.S. Department of State Trafficking in Persons Annual Report](#) and the July 2011 [FATF Report: Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants](#).

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How to Identify Human Smuggling and Human Trafficking Transactions

To help identify and report transactions possibly associated with human smuggling and human trafficking, FinCEN has identified a number of red flags (see [Appendices A](#) and [B](#)) that financial institutions may consider incorporating into their monitoring programs. In applying these red flags, financial institutions are advised that no single transactional red flag is a clear indicator of human smuggling or trafficking-related activity. Accordingly, financial institutions should consider additional factors, such as a customer's expected financial activity, when determining whether transactions may be associated with human trafficking.

The red flags described in Appendices A and B may be associated with one or more of the stages of human smuggling or trafficking described above and may be considered by all financial institutions. Some red flags may be common to several types of financial institutions (e.g., banks, money transmitters, credit unions) while other red flags may be unique to a specific type of financial institution. Appendices A and B describe the human smuggling/trafficking stages and/or types of financial institutions most closely associated with each red flag.

In order to more effectively evaluate transactional activity, financial institutions may consider reviewing transactions at the relationship level rather than at the account level. Relationship level reviews allow financial institutions to analyze a customer's transactions across multiple accounts instead of reviewing transactions that are conducted solely through one account. This approach may also be applied when monitoring for any type of suspicious activity to offer financial institutions a more comprehensive perspective on the customer's behavior and activity.

Finally, direct interactions by branch or floor personnel with customers during the course of daily transactions can also alert financial institutions to human smuggling or trafficking-related activity. In many cases, smugglers and traffickers and/or their victims may hold accounts or receive services from financial institutions. Observations made by branch or floor personnel can lead to the identification of anomalous activity that could alert a financial institution to initiate a review of a customer's transactions.

FinCEN Guidance to Financial Institutions

Due to some similarities with legitimate financial activities, financial institutions may consider evaluating indicators of potential human smuggling or trafficking activity in combination with other red flags and factors, such as expected transaction activity, before making determinations of suspiciousness. No one transaction or red flag by itself is a clear indicator of human smuggling or trafficking. Additionally, in making a determination of suspiciousness, financial institutions are encouraged to use previous FinCEN advisories

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and guidance as a reference when evaluating potential suspicious activity. For instance, in May 2014 FinCEN published an advisory on the use and structure of funnel accounts,⁴ one of the red flags identified in [Appendices A](#) and [B](#) of this advisory. Financial institutions may consider incorporating the guidance outlined in this advisory in a manner that is commensurate with their risk profile and business model.

In evaluating whether certain transactions are suspicious and/or related to human smuggling or trafficking, financial institutions are encouraged to share information with one another, as appropriate, under Section 314(b) of the USA PATRIOT Act.⁵ Section 314(b) establishes a voluntary information sharing mechanism allowing financial institutions to share information with one another regarding possible terrorist activity or money laundering and provides financial institutions with the benefit of a safe harbor from liability that might not otherwise exist with respect to the sharing of such information.⁶ Thus, suspected money laundering involving the proceeds of human smuggling or human trafficking activity could be shared amongst financial institutions under Section 314(b).

Suspicious Activity Reporting

SARs continue to be a valuable avenue for financial institutions to report suspected human smuggling or trafficking. Consistent with the standard for reporting suspicious activity as provided for in 31 CFR Chapter X, if a financial institution knows, suspects, or has reason to suspect that a transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction, the financial institution should file a Suspicious Activity Report.

To assist law enforcement in targeting instances of human smuggling and trafficking, FinCEN requests that financial institutions include one or both of the below key term(s) in the Narrative and the Suspicious Activity Information:⁷

“ADVISORY HUMAN SMUGGLING” and/or “ADVISORY HUMAN TRAFFICKING”

Financial institutions should include one or both terms to the extent that financial institutions are able to distinguish between human smuggling and human trafficking. The narrative should also include an explanation of why the institution knows, suspects, or has reason to

4. See, FinCEN (May, 2014) Advisory [FIN-2014-A005](#) for a detailed description of funnel accounts.
5. Pub. L. No. 107-56, § 314(b). See also, 31 CFR 1010.540.
6. For further guidance related to the 314(b) Program, please see FinCEN’s [Section 314\(b\) Fact Sheet](#) and [FIN-2009-G002](#) (June, 2009), Guidance on the Scope of Permissible Information Sharing Covered by Section 314(b) Safe Harbor of the USA PATRIOT Act.
7. Financial institutions may include any relevant key terms in the “Other” fields of items 29 through 38, as applicable, of Part II (Suspicious Activity Information) of the SAR.

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suspect that the activity is suspicious. It is important to note that a potential victim of human smuggling or trafficking should not be reported as the subject of the SAR. Rather, all available information on the victim should be included in the narrative portion of the SAR.

Questions or comments regarding the contents of this Advisory should be addressed to the FinCEN Resource Center at (800) 767-2825 or (703) 905-3591. *Financial institutions wanting to report suspicious transactions that may relate to terrorist activity should call the Financial Institutions Toll-Free Hotline at (866) 556-3974 (7 days a week, 24 hours a day).* The purpose of the hotline is to expedite the delivery of this information to law enforcement. Financial institutions should immediately report any imminent threat to local-area law enforcement officials.

FinCEN's mission is to safeguard the financial system from illicit use and combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.

APPENDIX A: Human Smuggling Red Flags

Financial institutions may choose to use this appendix as a handout for their investigations staff and/or branch personnel. No one transaction or red flag by itself is a clear indicator of human smuggling; accordingly, financial institutions may consider applying these red flags in combination with other factors, such as a customer's profile and expected transaction activity.














Transactional and Customer Red Flags	Who would most likely see the Red Flag?
 Multiple wire transfers, generally kept below the \$3,000 reporting threshold, sent from various locations across the United States to a common beneficiary located in a U.S or Mexican city along the Southwest Border. ¹	 Money Transmitters  Banks/Credit Unions
 Multiple wire transfers conducted at different branches of a financial institution to or from U.S or Mexican cities along the Southwest Border on the same day or on consecutive days.	 Money Transmitters/Prepaid Card Providers  Banks/Credit Unions
 Money flows that do not fit common remittance patterns: <ul style="list-style-type: none"> Wire transfers that originate from countries with high migrant populations (e.g., Mexico, Guatemala, El Salvador, Honduras) are directed to beneficiaries located in a U.S or Mexican city along the Southwest Border. Beneficiaries receiving wire transfers from countries with high migrant populations (e.g., Mexico, Guatemala, El Salvador, Honduras) who are not nationals of those countries. 	 Money Transmitters  Banks/Credit Unions
 Unusual currency deposits into U.S. financial institutions, followed by wire transfers to countries with high migrant populations (e.g., Mexico, Guatemala, El Salvador, Honduras) in a manner that is inconsistent with expected customer activity. This may include sudden increases in cash deposits, rapid turnover of funds and large volumes of cash deposits with unknown sources of funds.	 Money Transmitters  Banks/Credit Unions
 Multiple, apparently unrelated, customers sending wire transfers to the same beneficiary, who may be located in a U.S or Mexican city along the Southwest Border. These wire senders may also use similar transactional information including but not limited to common amounts, addresses and phone numbers. When questioned to the extent circumstances allow, the wire senders may have no apparent relation to the recipient of the funds or know the purpose of the wire transfers.	 Money Transmitters  Banks/Credit Unions
 A customer's account appears to function as a funnel account, ² where cash deposits (often kept below the \$10,000 reporting threshold) occur in cities/states where the customer does not reside or conduct business. Frequently, in the case of funnel accounts, the funds are quickly withdrawn (same day) after the deposits are made.	 Banks/Credit Unions

1. The Southwest Border is generally described as the U.S. – Mexico land border.

2. See, FinCEN (May, 2014) Advisory [FIN-2014-A005](#) for a detailed description of funnel accounts.

APPENDIX A: Human Smuggling Red Flags

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Transactional and Customer Red Flags	Who would most likely see the Red Flag?
 Checks deposited from a possible funnel account appear to be pre-signed, bearing different handwriting in the signature and payee fields. ³	 Banks/Credit Unions
 Frequent exchange of small-denomination for larger denomination bills by a customer who is not in a cash intensive industry. This type of activity may occur as smugglers ready proceeds for bulk cash shipments. ⁴	 Casinos  Banks/Credit Unions
 When customer accounts near the Southwest Border are closed due to suspicious activity, new customers may begin transacting on behalf of those customers whose accounts have been closed. This may be done as a means to continue illicit activities. In this case, new accounts often reflect activity similar to that of the closed accounts where transactions may be frequently-occurring, currency-intensive and involve individuals that used to receive/send funds from/to accounts previously-closed due to suspicious activity.	 Banks/Credit Unions
 Unexplained/unjustified lifestyle incommensurate with employment or business line. Profits/deposits significantly greater than that of peers in similar professions/business lines.	 Casinos/ Money Transmitters/ Check Cashers/ Prepaid Card Providers  Banks/Credit Unions
 Inflows are largely received in cash where substantial cash receipts are inconsistent with the customer's line of business. Extensive use of cash to purchase assets and to conduct transactions.	 Money Transmitters/ Check Cashers  Banks/Credit Unions

3. See, FinCEN (May, 2014) Advisory [FIN-2014-A005](#) for a detailed description of funnel accounts.

4. See, FinCEN (April, 2006) Advisory [FIN-2006-A003](#) for a detailed description of repatriation of currency smuggled into Mexico from the United States.

APPENDIX B: Human Trafficking Red Flags














































Financial institutions may choose to use this appendix as a handout for their investigations staff and/or branch personnel. No one transaction or red flag by itself is a clear indicator of financial institutions may consider applying these red flags in combination with other factors, such as a customer's profile and expected transaction activity.

Transactional Red Flags: Behaviors observed as part of account activity	Who would most likely see the Red Flag?	When most likely to see the Red Flag?
 A business customer does not exhibit normal payroll expenditures (e.g., wages, payroll taxes, social security contributions). Payroll costs can be non-existent or extremely low for the size of the customer's alleged operations, workforce and/or business line/model.	 Banks/Credit Unions	 Exploitation Stage
 Substantial deductions to wages. To the extent a financial institution is able to observe, a customer with a business may deduct large amounts from the wages of its employees alleging extensive charges (e.g., housing and food costs), where the employees only receive a small fraction of their wages; this may occur before or after the payment of wages.	 Check Cashers/ Prepaid Card Providers  Banks/Credit Unions	 Exploitation Stage
 Cashing of payroll checks where the majority of the funds are kept by the employer or are deposited back into the employer's account. This activity may be detected by those financial institutions that have access to paystubs and other payroll records.	 Money Transmitters/ Check Cashers/ Prepaid Card Providers  Banks/Credit Unions	 Exploitation Stage
 The following two red flags may signal anomalous customer activity; however, they should be applied in tandem with other indicators when determining whether transactions are linked to human trafficking. <ul style="list-style-type: none"> Transactional activity (credits and/or debits) inconsistent with a customer's alleged employment, business or expected activity, or where transactions lack a business or apparent lawful purpose. Cash deposits or wire transfers are kept below \$3,000 or \$10,000 in apparent efforts to avoid record keeping requirements or the filing of Currency Transaction Reports (CTRs), respectively. 	 Casinos/ Money Transmitters/ Check Cashers/ Prepaid Card Providers  Banks/Credit Unions	 Recruitment Stage  Transportation Stage  Exploitation Stage
 Frequent outbound wire transfers, with no business or apparent lawful purpose, directed to countries at higher risk for human trafficking ¹ or to countries that are inconsistent with the customer's expected activity.	 Money Transmitters  Banks/Credit Unions	 Recruitment Stage  Transportation Stage  Exploitation Stage
 A customer's account appears to function as a funnel account, ² where cash deposits occur in cities/states where the customer does not reside or conduct business. Frequently, in the case of funnel accounts, the funds are quickly withdrawn (same day) after the deposits are made.	 Banks/Credit Unions	 Exploitation Stage

- To view the countries of origin, transit and destination of human trafficking victims, please refer to the [U.S. Department of State Trafficking in Persons Annual Report](#) and the July 2011 [FATF Report: Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants](#).
- See, FinCEN (May, 2014) Advisory [FIN-2014-A005](#) for a detailed description of funnel accounts.

APPENDIX B: Human Trafficking Red Flags

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 Multiple, apparently unrelated, customers sending wire transfers to the same beneficiary. These wire senders may also use similar transactional information including but not limited to a common address and phone number. When questioned to the extent circumstances allow, the wire senders may have no apparent relation to the recipient of the funds or know the purpose of the wire transfers.	 Money Transmitters  Banks/Credit Unions	 Exploitation Stage
 Transactions conducted by individuals, escorted by a third party (e.g., under the pretext of requiring an interpreter), to transfer funds (that may seem to be their salaries) to other countries.	 Money Transmitters/Check Cashers  Banks/Credit Unions	 Exploitation Stage
 Frequent payments to online escort services for advertising, including small posting fees to companies of online classifieds as well as more expensive, higher-end advertising and website hosting companies.	 Money Transmitters/Prepaid Card Providers  Banks/Credit Unions	 Exploitation Stage
 Frequent transactions, inconsistent with expected activity and/or line of business, carried out by a business customer in apparent efforts to provide sustenance to individuals (e.g., payment for housing, lodging, regular vehicle rentals, purchases of large amounts of food).	 Money Transmitters/Prepaid Card Providers  Banks/Credit Unions	 Transportation Stage  Exploitation Stage
 Payments to employment or student recruitment agencies that are not licensed/registered or that have labor violations.	 Money Transmitters/Check Cashers/Prepaid Card Providers  Banks/Credit Unions	 Recruitment Stage  Transportation Stage  Exploitation Stage
Customer Interaction Red Flags: Behaviors observed while interacting with the public	Who would most likely see the Red Flag?	When most likely to see the Red Flag?
 A customer establishes an account or visits a branch to conduct transactions while always escorted by a third party (e.g., under the pretext of requiring an interpreter). Correspondingly, the third party escorting the customer may always have possession of the customer's ID.	 Money Transmitters/Check Cashers  Banks/Credit Unions	 Exploitation Stage
 Common signer(s)/custodian(s) in apparently unrelated business and/or personal accounts. Similarly, common information (e.g., address, phone number, employment information) used to open multiple accounts in different names.	 Banks/Credit Unions	 Exploitation Stage
 Accounts of foreign workers or students where the employer or employment agency serves as a custodian.	 Banks/Credit Unions	 Exploitation Stage
 Unexplained/unjustified lifestyle incommensurate with employment or business line. Profits/deposits significantly greater than that of peers in similar professions/business lines.	 Casinos/Money Transmitters/Check Cashers/Prepaid Card Providers  Banks/Credit Unions	 Recruitment Stage  Transportation Stage  Exploitation Stage
 Inflows are largely received in cash where substantial cash receipts are inconsistent with the customer's line of business. Extensive use of cash to purchase assets and to conduct transactions.	 Money Transmitters/Check Cashers  Banks/Credit Unions	 Recruitment Stage  Transportation Stage  Exploitation Stage